

UNITED STATES OF AMERICA
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: AUTOMOTIVE PARTS
ANTITRUST LITIGATION

Master File No. 12-md-02311
Hon. Marianne O. Battani

PRELIMINARY APPROVAL OF SETTLEMENTS

BEFORE THE HONORABLE MARIANNE O. BATTANI
United States District Judge
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan
Tuesday, July 1, 2014

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	TABLE OF CONTENTS	
		Page
1		
2		
3		
4	PRELIMINARY APPROVAL OF SETTLEMENT REGARDING LEAR	
5	Direct-Purchaser Plaintiffs.....	5
6	PRELIMINARY APPROVAL OF SETTLEMENT REGARDING LEAR AND KYUNGSHIN-LEAR SALES AND ENGINEERING	
7	Auto Dealer Plaintiffs.....	17
8	End-Payor Plaintiffs.....	22
9		
10	PRELIMINARY APPROVAL OF SETTLEMENT REGARDING AUTOLIV	
11	Direct-Purchaser Plaintiffs.....	25
12	Auto Dealer Plaintiffs.....	32
13	End-Payor Plaintiffs.....	34
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 Detroit, Michigan

2 || Tuesday, July 1, 2014

3 at about 10:58 a.m.

4

— — —

5 || THE CASE MANAGER: All rise.

6 The United States District Court for the Eastern
7 District of Michigan is now in session, the Honorable
8 Marianne O. Battani presiding.

9 You may be seated.

10 The Court calls the case of In Re: Automotive
11 Parts Antitrust Litigation.

12 THE COURT: Good morning.

13 UNIDENTIFIED ATTORNEYS: (Collectively) Good
14 morning, Your Honor.

15 THE COURT: All right. Rob, I know you got the
16 appearances, but shall we do them formally for the record
17 though? Let's start with plaintiffs' counsel.

18 MR. SPECTOR: Eugene Spector on behalf of the
19 direct-purchaser plaintiffs. Good morning, Your Honor.

20 MR. REISS: Good morning, Your Honor. Wil Reiss on
21 behalf of the end-payor plaintiffs.

22 MR. KANNER: Good morning, Your Honor.

23 Steve Kanner on behalf of the direct-purchaser plaintiffs.

24 MR. PERSKY: Bernard Persky on behalf of the
25 end-payor plaintiffs.

1 MR. RAITER: Good morning, Your Honor.

2 Shawn Raiter on behalf of the automobile dealers.

3 MR. FREY: Good morning, Your Honor. Brendan Frey
4 on behalf of the automobile dealers.

5 MR. SCHNATZ: Good morning, Your Honor.

6 Adam Schnatz, S-C-H-N-A-T-Z, on behalf of the end payors.

7 MR. KOHN: Good morning, Your Honor. Joseph Kohn
8 for the direct purchasers.

9 MR. HANSEL: Good morning, Your Honor. Greg Hansel
10 for the direct purchasers.

11 MR. FINK: Good morning. David Fink for the direct
12 purchasers.

13 THE COURT: Okay. Defense?

14 MR. MAROVITZ: Your Honor, Andy Marovitz for Lear
15 Corporation.

16 MR. KONTIO: Good morning, Your Honor.

17 Peter Kontio for AutoLiv.

18 MR. SANDERS: Good morning, Your Honor.

19 Parker Sanders for Kyungshin-Lear Sales and Engineering.

20 MR. FALKENSTEIN: Good morning, Your Honor.

21 Peter Falkenstein for Kyungshin-Lear Sales and Engineering.

22 THE COURT: Anybody else? I have a few more names
23 here. Ladies?

24 MS. MALTAS: Good morning, Your Honor.

25 Allyson Maltas for Sumitomo.

1 MS. JACKSON: Good morning, Your Honor.

2 Tiffany Lipscomb Jackson for Yazaki.

3 MR. KASTORF: Kurt Kastorf for Denso.

4 MR. BISIO: Richard Bisio on behalf of Furukawa and
5 Nachi.

6 THE COURT: Wait a minute. That one I don't have
7 on the list.

8 MR. WIERENGA: Robert Wierenga on behalf of Takata.

9 THE COURT: Okay. Now, as I see it, we have six
10 proposed settlements. I don't know that we want to go
11 through everything multiple times, but I think we need to at
12 least start with the first, and I'm going to go with the wire
13 harness being the first because it is obviously the oldest.
14 Let's start with the direct purchasers. Who is going to do
15 that?

16 MR. SPECTOR: Good morning, Your Honor.

17 Eugene Spector on behalf of the direct-purchaser plaintiffs.

18 THE COURT: Okay.

19 MR. SPECTOR: Happy to be here, Your Honor, to talk
20 about a settlement. Somebody once said that brevity is the
21 soul of wit. I'm going to try to be very witty and very
22 brief.

23 THE COURT: Okay.

24 MR. SPECTOR: First of all, Your Honor, I would
25 like to bring to your attention, I think it already has been

1 but I want to make sure it has, an amendment to the
2 settlement agreements. It is a letter amendment, and it
3 conforms the settlement agreement to the escrow agreement so
4 as to allow the escrow agent to make investments in insured
5 instruments, not just treasury bonds.

6 THE COURT: Okay. Would you explain to me while we
7 are on that in terms of all of these various settlements,
8 they are different funds or banks or financial
9 institutions --

10 MR. SPECTOR: Yes, the funds are invested for the
11 benefit of the class, that will earn interest, in today's
12 market a very modest amount of interest, that's one of the
13 reasons we did this, it gets us I believe a little bit more
14 interest on the funds.

15 THE COURT: Okay.

16 MR. SPECTOR: And those funds will be held until
17 distribution is made at which time the interest that is in
18 that fund would be distributed as part of the settlement
19 distribution to the class.

20 THE COURT: Thank you.

21 MR. SPECTOR: I have a copy of the settlement
22 amendment if you would like me to hand that up?

23 THE COURT: Yes, I would like that. Please hand
24 that to my clerk right there.

25 MR. SPECTOR: With regard to the settlement with

1 Lear, our papers fully describe the terms of the settlement,
2 they fully describe the benefits and why we all believe that
3 this is in the best interest of the class and that falls
4 within the ambit of what might well be approved by this Court
5 at a final settlement.

6 Rather than go through all of those things again,
7 if the Court has any questions I'm happy to answer them but I
8 would just like to point out a couple of minor things, they
9 are not so minor. One, Lear was never indicted. Lear was
10 never subpoenaed. This is an icebreaker settlement in this
11 case, and \$4.75 million plus cooperation we think is a very
12 fair and reasonable amount for the class under the
13 circumstances.

14 We think that the terms with regard to class
15 certification for preliminary approval purposes, for
16 settlement, are clearly met, and we would ask the Court to
17 enter the order or one similar to it that we have submitted
18 for preliminary approval of this settlement.

19 The one response that was filed was by the
20 defendants asking us and asking the Court to do what's
21 already provided for in the order and the settlement
22 agreement, and that is any order that approves a class here
23 for purposes of settlement will not be binding on anybody in
24 future actions in this case, that won't -- you can't cite it
25 as authority for supportive class certification in the

1 future.

2 THE COURT: Okay.

3 MR. SPECTOR: Your Honor, under those
4 circumstances, Your Honor, unless you have some questions --

5 THE COURT: Well, let's get somebody from Lear.

6 Who is going to speak? Okay.

7 MR. MAROVITZ: Your Honor, good morning.

8 Andy Marovitz for Lear Corporation.

9 I really have nothing to add to what is contained
10 in the settlement agreement and to what we mentioned during
11 the last status conference on June 4th.

12 THE COURT: Okay. I just want to be very clear
13 that the term in the settlement agreement which preserves
14 your right to contest the class in further -- in future
15 actions, are you satisfied with that agreement?

16 MR. MAROVITZ: Yes, Your Honor, and let me explain
17 with a little more precision. So for us we would not be
18 contesting -- for Lear, Lear would not be contesting the
19 class.

20 THE COURT: Right.

21 MR. MAROVITZ: When we arranged with plaintiffs to
22 include the language that is now contained about the other
23 defendants being able to contest the class, we modeled that
24 off of previous settlements, and so it seemed to us that what
25 the non-settling defendants wish to have is exactly what is

1 currently contained in the settlement agreement, and I
2 think -- I won't speak for them if they wish to say something
3 else, but I think it was really a prophylactic request to
4 make sure the Court entered the preliminary approval order as
5 drafted by plaintiffs and as accepted by Lear.

6 THE COURT: Well, I know we went over that before
7 but I just want to make sure that all defendants are in
8 agreement with what is in there; is that correct?

9 MS. MALTAS: Your Honor, I'm Allyson Maltas from
10 Sumitomo.

11 And as reflected in the response that we filed, we
12 are in agreement with the language that is included and would
13 request that the Court include that in your order.

14 THE COURT: Okay. Well, it is in the order, right?

15 MS. MALTAS: Yes, it's in the proposed order.

16 THE COURT: When you say request I keep thinking
17 there is something to add.

18 MS. MALTAS: Well, if you were to change the order
19 in some way to reflect something else, that that language
20 remain in the order that you file.

21 THE COURT: Thank you. Got it. Anything else,
22 Mr. Spector?

23 MR. SPECTOR: One other thing, Your Honor, that I
24 failed to mention, and that is the schedule for purposes of
25 notice. We have an order already entered by stipulation that

1 provides that the defendants will give us customer lists by
2 August the 4th, which will be a Monday. We can then mail
3 notice by August 18th. We can publish notice in the
4 Wall Street Journal and Automotive News by August 25th. We
5 would file motions for final approval with the Court on
6 October 7th. Objections and requests to opt out must be
7 filed by October 17th. And then we would suggest that a
8 final approval hearing be held anytime after November 18th,
9 and I would like to try to suggest that we do the AutoLiv
10 settlement and the Lear settlement at the same time for final
11 approval as we are doing today with preliminary approval, and
12 I think Mr. Kanner will speak to that, but we were thinking
13 of somewhere in the first two weeks in December, that should
14 give everybody plenty of time to get things done.

15 THE COURT: Okay.

16 MR. SPECTOR: Thank you, Your Honor.

17 THE COURT: All right. Any comments on the
18 schedule from defendants?

19 MR. MAROVITZ: No, Your Honor. Thank you.

20 THE COURT: Okay. All right. The Court has
21 reviewed this matter and certainly under Rule 23(e) the Court
22 has to approve the proposed settlement which must be fair,
23 reasonable and adequate. The Court has reviewed that
24 settlement. We know that there are a number of factors
25 favoring settlement, they have been cited and laid out in

1 detail in the plaintiffs' brief so I'm not going to go over
2 all of it except to say certainly here the claims are complex
3 and the issues are numerous, and this settlement -- the
4 cooperation agreement provides an immediate benefit, I think
5 that goes along with the monetary settlement in the case, and
6 that the Court does note as has been put on the record by the
7 defendant that the Department of Justice has not accused Lear
8 of any wrongdoing in the wire harness conspiracy, and has
9 represented -- and Lear has represented that it has never
10 received a DOJ subpoena. Certainly this is an icebreaker
11 settlement in this litigation and Lear has agreed to
12 cooperate.

13 The Court should, in fact, I believe, provisionally
14 certify regarding the class under Rule 23. The class has
15 been defined in the papers, I'm not going to -- well, the
16 class here is very narrow so I guess it is not very long,
17 that is all individuals and entities that purchased wire
18 harness products in the United States directly from one or
19 more of the defendants from January 1st, 2000 through the
20 execution date.

21 Clearly the numerosity applies here. There is a
22 commonality and a question of law, in fact, common to these
23 cases in that the same wrong is allegedly injuring the class
24 as a whole.

25 In terms of the adequacy of the representation, the

1 Court finds that the representative parties will fairly and
2 adequately protect the interest of the class.

3 Counsel here is qualified and able to conduct the
4 litigation, and I think that's one of the factors that is
5 considered by the Court, mentioned in any number of the
6 cases, and the Court certainly knows how important it is, and
7 I find, as I have had before, that counsel is well qualified
8 and able to adequately represent the class and also the class
9 representatives and also help with and understand the various
10 complexities of this case.

11 Clearly the third prerequisite is the typicality
12 and the claims of the respective representative parties must
13 be typical of the class, and they are here. The typicality
14 requirement is satisfied even if there is a factual
15 distinction between claims of the named plaintiffs. Common
16 questions predominate, and clearly the class resolution here
17 is the superior method.

24 There is one other issue and that's the expenses
25 that plaintiffs asked, and that was not addressed here this

1 morning but maybe, Mr. Spector, you should comment on that.

2 MR. SPECTOR: I'll just comment briefly on it, Your
3 Honor. It is not atypical in this kind of case for the
4 counsel to request expenses -- an award from the settlement
5 funds for expenses.

6 THE COURT: This is 20 percent?

7 MR. SPECTOR: This is no more than 20 percent.

8 THE COURT: And it is not attorney fees?

9 MR. SPECTOR: It is not attorney fees at all, it
10 will be used for expenses in the wire harness litigation for,
11 for example, expert fees, copying costs, deposition costs,
12 those kinds of things.

13 THE COURT: Okay. Thank you.

14 MR. SPECTOR: Thank you, Your Honor.

15 THE COURT: The Court approves the 20 percent to be
16 used as expenses, I think that's reasonable, and the expenses
17 in this case I know are quite high, to say the least.

18 All right. Also, finally, the Court will grant the
19 preliminary approval of the settlement, authorize
20 dissemination of the notice and schedule a fairness hearing
21 on the settlement in due course. Okay.

22 MR. SPECTOR: Thank you, Your Honor.

23 THE COURT: Anything else on that one?

24 (No response.)

25 THE COURT: Now we have the auto dealers.

1 MR. RAITER: Good morning, Your Honor.

2 ||| Shawn Raiter on behalf of the automobile dealers.

3 The Lear settlement has many of the same terms as
4 both the direct settlement and the end-payor settlement in
5 terms of the cooperation, the scope of that cooperation, the
6 mechanics of the cooperation, the money to be paid to the
7 automobile dealerships by Lear defendants is \$1,032,000. We
8 believe under the circumstances that is fair, within the
9 range of possible approval and should be granted preliminary
10 approval by the Court.

11 We are not requesting leave to send notice, we have
12 not asked the Court to approve a notice yet. Our plan, and I
13 believe it is a similar plan of the end payors or a similar
14 idea, is that we are going to aggregate some of these
15 settlements and try to get some efficiencies in the notice
16 that we will need to send to automobile dealers. If you
17 think about the three different sets of plaintiffs here, you
18 likely have fewer direct purchasers than you are going to
19 have automobile dealers where there are more of those, and
20 then you are going to have consumers where there are even
21 more, and your notice programs need to address those
22 differences, and until we get what we believe are a
23 sufficient number of settlements concluded we don't intend to
24 incur the expense of notice with the Court's approval, so
25 that was part of our motion for us to be granted leave to

1 come back later, present you a notice and a notice plan and
2 seek your approval at that time to disseminate notice, give
3 the class members a chance to comment or opt out, and then
4 come in for final approval sometime thereafter.

5 THE COURT: All right.

6 MR. RAITER: Unless the Court has questions, I will
7 sit down?

8 THE COURT: No. Thank you.

9 MR. RAITER: Thank you.

10 THE COURT: Okay. Defense?

11 MR. MAROVITZ: Good morning, Your Honor.

12 Andy Marovitz for Lear.

13 I don't think I have anything to add with respect
14 to the dealers.

15 THE COURT: Okay.

16 MR. MAROVITZ: I'm sorry, Your Honor. I should say
17 Parker Sanders for Kyungshin-Lear also is here because the
18 settlement with respect to the dealers and the end payors is
19 between those plaintiff classes for settlement purposes and
20 Lear and Kyungshin-Lear.

21 THE COURT: Yes. Counsel?

22 MR. SANDERS: Yes, Your Honor. Parker Sanders for
23 Kyungshin-Lear Sales and Engineering.

24 We are a separate entity from Lear, and the last
25 status conference Mr. Marovitz made some representations

1 about Lear. I can make similar representations about
2 Kyungshin-Lear; we have never received a subpoena from the
3 Department of Justice, we were never identified as a subject
4 or target of an investigation, we were never indicted, we
5 never pled guilty, and we have never been named or implicated
6 in any of the guilty pleas by any of the others.

7 THE COURT: Thank you.

8 MR. SANDERS: Nothing more to add.

9 THE COURT: The Court has reviewed this, and I am
10 not going to repeat what I said before in terms of the class.
11 All of the statements that I made regarding, first of all,
12 the reasonableness of the settlement, and I think here there
13 is even more complexity because of the bankruptcy, et cetera,
14 and also the provisions under Rule 23 for the class are very
15 similar to what the Court has already stated, so I am going
16 to simply incorporate that, and I don't think I need to
17 repeat it unless somebody feels that I do. No? Okay.

18 Yes, I do appreciate that the notice in this
19 particular group will be held off for a while but not
20 indefinitely, so somebody give me some kind of time frame as
21 to what we are talking about. Mr. Raiter?

22 MR. RAITER: Your Honor, I think our plan is as we
23 are documenting the other settlements that we've disclosed to
24 the Court, that once those are up and before the Court for
25 preliminary approval and hopefully receive preliminary

1 approval, that sometime thereafter we would come with those
2 settlements that have been approved to date and collectively
3 then ask for leave to send a notice.

4 THE COURT: How long do you think that would be
5 though?

6 MR. RAITER: Hopefully within a couple months at
7 the very most.

8 THE COURT: Okay. Thank you.

9 MR. RAITER: The parties are documenting the
10 settlement agreements and getting everything lined up, so I
11 would assume that we would be in here fairly soon.

12 THE COURT: All right. One other thing that
13 crosses my mind, and I know this is not a general status
14 conference, but I am thinking when we get to these
15 settlements should we have a web page on the Court? We don't
16 have that now, and I know it is coming out, but it seems this
17 may be appropriate.

18 MR. SPECTOR: I know we have -- we will be -- with
19 our notice, one of our parts of our notice plan is to have a
20 web page that the class members can go to to access --
21 anybody can go to to access information about the case and
22 the settlement.

23 I know that there have been times when courts have
24 had a web page for MDL cases. If that's what the Court is
25 talking about, we can certainly look into trying to put

1 something together with the Court.

2 THE COURT: Well, I know, you know, you have to
3 have your own web page with everything?

4 MR. SPECTOR: Yes.

5 THE COURT: I'm just thinking that maybe it is time
6 to put it on our court to kind of look forward maybe to be
7 ready for our next status conference but to have some
8 connection on our court so if somebody looks in this court
9 and it is -- I'm sorry, I don't remember the specifics, but
10 say they say cases of note or large cases or something, that
11 they can hit on it so that the public can see what's going on
12 with the MDL case.

13 MR. SPECTOR: Yes.

14 THE COURT: Or at least refer them to your pages so
15 that they can --

16 MR. SPECTOR: I would think that we could work with
17 the Court's electronic system to see what can be done to put
18 on the Court's web page access to the MDL case.

19 THE COURT: Okay. We will --

20 MR. SPECTOR: We can look into that.

21 THE COURT: Okay. Mr. Marovitz?

22 MR. MAROVITZ: Thank you, Your Honor. We would be
23 happy to work with the plaintiffs on that. The only thing
24 that we would not want, at least for Lear, is we are here
25 today, as plaintiffs' counsel has said, really as an

1 icebreaker settlement, and as has been said to the Court
2 before in sum and substance, you know, we are not being
3 targeted by DOJ, we are not a witness to that, they didn't
4 come to us, so we would hate for this icebreaker settlement
5 to extricate ourselves from the economic harm that's resulted
6 defending the case to get undue prominence.

7 || THE COURT: Well --

8 MR. MAROVITZ: So if the point is to have a website
9 for the whole case we certainly would be fine with that but
10 we wouldn't want this particular settlement to be spotlighted
11 in it.

16 MR. MAROVITZ: Sure, sure.

17 THE COURT: And this would not happen before I
18 present it to the whole group at our next status conference
19 which -- when is it now, October?

20 MR. SPECTOR: October 8th, I believe, Your Honor.

21 THE COURT: So it wouldn't happen until
22 October 8th, though we may be calling on you saying what
23 would you like to see. I have to talk to our people, I
24 haven't done it yet, but it's just come up a couple times and
25 I think now might be a good time to start looking to have

1 something on our site so if anybody wants to click on it just
2 to see the status of the case and what's going on I think it
3 might be time.

4 MR. MAROVITZ: Thank you, Your Honor.

5 THE COURT: All right. Thank you. Now we have the
6 end-payor plaintiffs.

7 MR. REISS: Good morning, Your Honor. Wil Reiss
8 for the end-payor plaintiffs.

9 THE COURT: Good morning.

10 MR. REISS: I don't have a whole lot to add because
11 I think most of the relevant facts have been stated. I think
12 our settlement is similar to the dealers and the direct
13 settlement.

14 One point though I would like to address on notice,
15 I think our class is significantly larger than the
16 direct-purchaser class and the dealer class. We are talking
17 about potentially millions of members, of class members,
18 these are folks who own automobiles or purchased wire harness
19 systems as replacement products, so the expenses associated
20 with notice are extremely costly, and to have to go through
21 that multiple times would be, we think, a disservice to the
22 class. So I can't make the same representation that we would
23 move to disseminate notice in a couple of months. I think it
24 would serve the class better if we waited.

25 We announced at the last status conference we have

1 two additional settlements, we hope to have more, so, I mean,
2 obviously it is in everybody's interest to resolve this as
3 soon as possible but we have negotiated with defendants, they
4 have agreed to permit us to defer notice and we think it is
5 in the best interest of the class to do that.

6 THE COURT: All right. The amount of your
7 settlement?

8 MR. REISS: The amount of the settlement -- again,
9 it is with both Lear Corporation and Kyungshin-Lear, it is
10 \$3.04 million from Lear and \$228,000 from Kyungshin-Lear.

11 THE COURT: Okay.

12 MR. REISS: Unless Your Honor has any other
13 questions?

14 THE COURT: No.

15 MR. REISS: Thank you.

16 THE COURT: Lear or Kyungshin-Lear, do you want to
17 make any comment?

18 MR. MAROVITZ: Nothing further from Lear, Your
19 Honor.

20 MR. SANDERS: Nothing further from Kyungshin-Lear.

21 THE COURT: Very good. The Court, again, based on
22 everything that has been said before, will incorporate that
23 as to the reasonableness of the settlement and the class and
24 the reasons for our class, and I approve the proposed
25 settlement and the class provisionally. We have the same

1 counsel, so we have counsel. And the proceedings against
2 Lear and KL are stayed pursuant to the settlement agreement.
3 And the notice, I agree there is going to be such a large
4 class that it doesn't make any sense to do the notice at this
5 time. I don't see anything legally that provides, at least
6 that I could find in class, that says we have to do it now.
7 Is there any stumbling block anybody sees?

8 MR. REISS: Your Honor, there is case law actually
9 and if you want we can provide that to you that actually
10 stands for the proposition that notice can, in fact, be
11 deferred.

12 THE COURT: No, I have seen it. Thank you very
13 much. Okay.

14 All right. Then we will go to the occupant safety,
15 plaintiff for direct.

16 MR. KANNER: Good morning, Your Honor, Steve Kanner
17 on behalf of the direct-purchaser plaintiffs.

18 At this latter part of the hearing I have the
19 privilege of asking Your Honor to make a preliminary
20 determination as you did with the previous two cases with
21 respect to a settlement with AutoLiv in the occupant safety
22 case finding that it is fair, reasonable and adequate, that
23 it was negotiated by competent counsel, is sufficiently
24 within the range of reasonableness to justify providing
25 notice, and that a finding on your part that the

1 prerequisites for a class action have been met leading to
2 provisional certification.

3 A bit of history. The first of the
4 direct-purchaser complaints was filed in OSS in 2012, a
5 consolidated-amended complaint filed in 2013, a second
6 consolidated-amended complaint which expanded the class which
7 now runs from 2003 through 2012 -- I'm sorry, 2011.

8 The settlement with AutoLiv was announced before
9 Your Honor on May 30th, 2014. I'm not going to repeat what's
10 in the motion and the briefs, but we do detail the history of
11 litigation including a description of the extensive
12 arm's-length negotiation with AutoLiv, we set forth the
13 standards for approval, and cite to a very significant recent
14 opinion in this district, that was the instrument panel
15 cluster determination.

16 THE COURT: Very recent.

17 MR. KANNER: A very lauded decision. In any event,
18 we believe that preliminary approval is necessary, is
19 appropriate and seek that Your Honor would make that
20 determination. It is the first step in a two-step process,
21 of course, which would authorize the issuance of the
22 preliminary notice.

23 As set forth in the material we submitted to the
24 Court, the class will receive \$40 million, which has already
25 been transferred to an escrow account, and depending upon

1 participation by class members that amount may be reduced to
2 a fixed amount but no less than \$24 million.

3 For reference, AutoLiv paid a fine of \$14
4 and-a-half million in connection with the guilty plea.

5 I would remind this Court that while it is a
6 significant settlement, it is an icebreaker settlement with
7 respect to this particular case, so we are -- we think that's
8 a significant factor.

9 The cooperation component with this particular
10 defendant in this particular settlement is also very
11 significant; it involves a detailed proffer by counsel for
12 AutoLiv discussing the specific allegations of the complaint
13 and the specific references to their guilty plea includes
14 interviews with those that were involved in the investigation
15 and, in fact, with the individual who is currently
16 incarcerated. It also includes AutoLiv's production of
17 relevant documents including those which were produced to
18 enforcement agencies, and it provides access to multiple
19 witnesses from AutoLiv for both interviews and as deponents
20 and at trial, so we think there is significant value in that
21 sense.

22 I would also notice that Exhibit B -- or note to
23 the Court that Exhibit B to the materials that we presented
24 advises the Court of the material issues with respect to the
25 settlement agreement and seeks the Court's permission to

1 authorize counsel to use up to \$1 million from the settlement
2 to cover litigation expenses. Co-counsel have decided not to
3 seek fees at this time with respect to the AutoLiv
4 settlement.

5 Now, with respect to the scheduling, there is an
6 issue which the Court needs to focus on, and that would be a
7 stipulated agreement which we filed I believe last Wednesday,
8 the 26th of June, which relates to a stipulation with
9 defendants to produce their customer lists. We would urge
10 the Court to enter that stipulated order today, and the
11 rationale, of course, is because it provides that the
12 defendants, not including AutoLiv, which has its own
13 independent production of the customer lists to us, but the
14 other defendants would need to produce that material within
15 45 days, and that has a lot of influence on our calendar in
16 terms of when we can send out notice.

17 If, in fact, we -- Your Honor issues that order
18 today, we will have that information, the customer lists, by
19 August 15th, and that would allow us to send out summary
20 notice, mail notice, by August 29th. Publication notice
21 could therefore be made on September 8th in the Wall Street
22 Journal print edition, and we've taken the extra step of
23 publishing it in the Automotive News electronic edition,
24 that's a weekly publication that issues on Monday. So we are
25 trying to locate -- or lock those into both the print and the

1 electronic notifications on Monday.

2 Based on that calendar, it would allow a motion for
3 final approval and request for payment of litigation expenses
4 I described to be filed on October 17th, and we would mark
5 October 30th as the date by which objections or requests for
6 exclusion must be postmarked. That is, I believe, 61 days
7 after the notice.

8 And as Mr. Spector indicated earlier, if all of
9 those parts of the puzzle fall into place, we can have the
10 hearing the first or second week of December certainly as
11 appropriate for the Judge's calendar.

12 THE COURT: Okay.

13 MR. KANNER: And that allows us to have a little
14 judicial economy with respect to both final approval hearings
15 on the same day.

16 THE COURT: All right.

17 MR. KANNER: If there are any questions I would be
18 happy to answer them, Your Honor?

19 THE COURT: No, and in terms of the order that you
20 submitted, I have it on my desk, I talked about it with my
21 staff, and after this hearing it will be entered.

22 MR. KANNER: Thank you very much, Your Honor. In
23 that case, the calendar that I articulated would hold.

24 THE COURT: Yes, it should be okay. I don't --

25 MR. KANNER: It should be fine.

1 THE COURT: -- foresee any problems with it right
2 now.

3 MR. KANNER: We are well within -- because notice
4 has already been sent out for counsel for AutoLiv with
5 respect to CAFA, and we are well within those limits too.

6 THE COURT: Okay.

7 MR. KANNER: Thank you very much, Your Honor.

8 THE COURT: Defense?

9 MR. KONTIO: Peter Kontio for the Defendant,
10 AutoLiv, Your Honor.

11 I have nothing to add and will continue to say
12 that, I hope, through the rest of the hearing.

13 THE COURT: Thank you, Mr. Kontio. Okay.

14 This is the first one of our occupant safety
15 matters, and it is a settlement with the direct-purchaser
16 plaintiffs, and the Court, again, just briefly will state
17 that certainly here the Court will do a preliminary approval
18 of the settlement. And in terms of notice, the Court will
19 approve the notice that has been put out so far in terms of
20 the procedure. Certainly at this stage there is no necessity
21 to determine extent -- to delve extensively into the merits,
22 but we know that 6th Circuit favors settlements and this is,
23 as was indicated, an icebreaker settlement for this part and
24 these parties, so hopefully it will lead to other
25 settlements. The settlement amount being \$40 million, as I

1 understand it, unless certain things occur that reduces that
2 to \$24 million I believe, and no less than that.

3 Again, the Court looks at this as being one that is
4 fair, that there is competent counsel who have negotiated
5 this arm's-length negotiation, that it is reasonable, the
6 amount, and including the cooperation agreement, which I
7 think is significant, I believe makes this a fair and
8 reasonable settlement.

9 The Court approves the timetable, and with the
10 signing of these orders today that should be good and
11 hopefully will be able to be resolved finally in December
12 with the hearing.

13 The Court, of course, finds that all of the factors
14 in the class necessities are met, and the Court also approves
15 because of the numerosity, commonality, the typicality, and
16 I'm not going into all of the details in those as have
17 already been explained, and the adequacy of the
18 representation clearly the class method is the superior
19 method to resolve this.

20 I believe the final thing is the \$1 million that is
21 asked for expenses from plaintiffs' counsel, and the Court
22 will approve the \$1 million to be taken out for expenses,
23 again, noting that this is not for attorney fees at this
24 point.

25 I think I've hit all of the points on that. Is

1 there anything else?

2 MR. KANNER: Your Honor, I did neglect to mention,
3 and I apologize, we will be submitting a similar amendment to
4 the settlement agreement -- actually to the escrow agreement.

5 THE COURT: That was mentioned before?

6 MR. KANNER: As was mentioned with Lear because it
7 provides, as Mr. Spector indicates, the interest rates on
8 T bills are essentially flat, and this provides --

9 THE COURT: Even on these millions of dollars, huh?
10 So I shouldn't worry too much about mine?

11 MR. KANNER: This provides with an additional 15 or
12 so basis points that will benefit the class, particularly on
13 a settlement of this size, so we'll be submitting that as
14 soon as possible, Your Honor.

15 THE COURT: Good.

16 MR. KANNER: Thank you, Your Honor.

17 THE COURT: So the Court then does grant the
18 preliminary approval of the settlement, authorizes the
19 dissemination of the notice and will adopt the schedule and
20 will hopefully schedule the hearing in December. Okay.

21 Let me go on then, if I could find my papers, to
22 the auto dealer plaintiffs.

23 MR. RAITER: Thank you, Your Honor. Shawn Raiter,
24 again, on behalf of the auto dealers.

25 The settlement with AutoLiv is a \$6 million cash

1 guaranteed payment. Cooperation terms are basically the same
2 as those with the directs and end payors. Again, this
3 applies to OSS or occupant safety systems. We, again,
4 request that the Court allow us to come later and request a
5 notice program and a notice be approved as we discussed with
6 respect to the Lear and KL Sales settlement.

7 With that, Your Honor, I don't have anything
8 further to add unless you have questions?

9 THE COURT: Okay.

10 MR. RAITER: Thank you.

11 THE COURT: Defendant?

12 MR. KONTIO: Nothing to add, Your Honor.

13 THE COURT: Okay. Thank you. You would be a very
14 good speechmaker, wouldn't you?

15 All right. The Court again adopts the previous
16 statements regarding the reasonableness of the settlement and
17 the need for class action, and I would also here approve
18 the -- preliminarily approve the proposed settlement and
19 provisionally certify the class, appoints the dealership
20 plaintiffs as representatives -- I didn't say this before but
21 the stay is automatic in all of these, and authorize
22 settlement counsel to defer notice to a later date, hopefully
23 not real late, but to a later date.

24 All right. Then the last one is the occupant
25 safety end payors.

1 MR. REISS: Best for last, Your Honor. I find
2 myself again having very little to add. The end-payors
3 settlement is for \$19 million. Again, the cooperation
4 provisions are similar, it is an icebreaker settlement as we
5 have discussed. And then similar to the settlement with
6 Kyungshin-Lear and Lear Corporation, we are seeking to defer
7 notice for the reasons that I mentioned.

8 THE COURT: Okay.

9 MR. KONTIO: Nothing to add, Your Honor.

10 THE COURT: Thank you. I think I'm going to say I
11 have nothing to add, I incorporate everything I said before.
12 With that, the Court does preliminarily approve the
13 settlement, the class and stay the proceeding. I will stay
14 that notice and we will see what happens later.

15 How -- what are we talking about in terms of notice
16 for the end-payor class? Are you looking to -- I'm just
17 curious, the end resolution of this case?

18 MR. REISS: Not necessarily. To be honest with
19 you, Your Honor, we are exploring it right now. I think it
20 depends in part on the settlements that we obtain. You know,
21 at some point there may be a number that makes it worthwhile
22 for us to do that but it has to be a significant number that
23 justifies the expense that we are going to employ, but maybe
24 we can think about it and come back with a proposal, but at
25 this point we just need a critical mass and we don't have

1 that yet.

2 THE COURT: Okay.

3 MR. MAROVITZ: Judge, if I may?

4 THE COURT: Yes.

5 MR. MAROVITZ: Andy Marovitz for Lear.

6 What Mr. Reiss said is exactly right. We had also,
7 at least for Lear, reserved our right to come back to the
8 Court at some point if we thought too much time had passed,
9 but we recognize the difficulties involved in notice for the
10 end payors and so we worked with them to reach the resolution
11 that we did for now. We are hoping that they can package
12 together enough settlements to make it financially attractive
13 and viable for them to give notice, but I just wanted to make
14 clear that at some point if we think that too much time has
15 passed we will come to the Court and make an appropriate
16 motion, but we hope that obviously that would never be
17 necessary.

18 THE COURT: Okay. Just think how lucky we are that
19 we are in this electronic age versus back when I started. I
20 don't even know what you'd do. Okay. Is there anything
21 else?

22 MR. MAROVITZ: Judge, just one other small thing.
23 Would it be possible to set a date for the December final
24 approval hearing for the directs for Lear and I guess for
25 AutoLiv as well as long as we are here?

1 THE COURT: Sure. Let me just take a look at that
2 calendar. We will do it an afternoon. Why don't you give me
3 possible suggestions that you would like and I will see if I
4 can do it. Anybody else?

5 MR. KANNER: The 3rd of December, Your Honor?

6 THE COURT: The 3rd of December? Okay. The 3rd of
7 December at 2:00?

8 MR. KANNER: Would that give the Court sufficient
9 time to do both hearings? I would imagine.

10 THE COURT: Well, I guess it depends.

11 MR. KANNER: Well --

12 THE COURT: It depends.

13 MR. KANNER: That was my point.

14 THE COURT: Yes. I could move that up to 1:00 and
15 that gives us an extra hour.

16 MR. KANNER: Your Honor, I think that makes -- it
17 is prudent to provide time in the event that other parties
18 wish to be heard, and then it might not have enough time to
19 do both hearings.

20 THE COURT: I mean, it could be, it could be that
21 we wouldn't have enough time anyway, we don't know this.

22 MR. KANNER: That's my point, Your Honor, so 1:00 I
23 think makes sense.

24 THE COURT: Okay. Let's do it then December 3rd at
25 1:00. Was there something else?

1 MR. REISS: Your Honor, I am not sure this is the
2 appropriate venue to raise this, but as you know the
3 end payors and the dealers filed ten consolidated-amendment
4 complaints based on the last status conference, these are the
5 cases that you referenced would be the next tranche of cases,
6 and we are negotiating with certain defendants for a briefing
7 schedule. Just to inquire, we haven't reached any agreement,
8 but the potential availability of the Court may be the same
9 day as you are going to be hearing final approval on
10 December 3rd, if we try to use it as a potential date to
11 schedule a hearing on that.

12 THE COURT: I don't have any problem with it, if we
13 can fit it in I would be delighted to do it.

14 MR. REISS: Okay.

15 THE COURT: If we couldn't --

16 MR. REISS: This all, of course, is subject to
17 agreement with the defendants, but the idea would be to try,
18 as you expressed in the last hearing, to try to get this
19 heard in December, and we just want to see if the Court has
20 availability in December.

21 THE COURT: I mean, I have the availability now to
22 schedule things, I have a big trial in December but it is
23 1:00 to 9:00, so I can do it in the afternoon. Do you want
24 it the same day you think for travel purposes?

25 MR. REISS: Again, I would have to talk to

1 defendants, I don't want to speak out of turn, but I just
2 wanted while we were here to get an idea of the Court's
3 availability to potentially propose that date.

4 THE COURT: Yes, and I have no problem with doing
5 it the same day if we can fit it in. Obviously these
6 hearings will -- the settlement hearings take precedence over
7 anything else.

8 MR. REISS: Understood.

9 THE COURT: Okay. Anything else?

10 (No response.)

11 THE COURT: Okay. Thank you very much. We
12 appreciate it.

13 THE CASE MANAGER: Court is adjourned.

14 (Proceedings concluded at 11:46 a.m.)

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CERTIFICATION

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3 I, Robert L. Smith, Official Court Reporter of
4 the United States District Court, Eastern District of
5 Michigan, appointed pursuant to the provisions of Title 28,
6 United States Code, Section 753, do hereby certify that the
7 foregoing pages comprise a full, true and correct transcript
8 taken in the matter of In Re: Automotive Parts Antitrust
9 Litigation, Case No. 12-02311, on Tuesday, July 1, 2014.

10

11

12

s/Robert L. Smith
Robert L. Smith, RPR, CSR 5098
Federal Official Court Reporter
United States District Court
Eastern District of Michigan

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Date: 07/16/2014

Detroit, Michigan